

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 01-7702**

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SALATHIEL FRANKLIN QUESENBERRY, JR.,

Plaintiff - Appellant,

versus

H. L. KIRKPATRICK, III, Judge; KRISTEN KELLER  
BURNSIDE; JAMES BARE; STATE OF WEST VIRGINIA;  
RALEIGH COUNTY SHERIFF'S DEPARTMENT,

Defendants - Appellees.

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Appeal from the United States District Court for the Southern  
District of West Virginia, at Beckley. Charles H. Haden II, Chief  
District Judge. (CA-01-207-5)

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Submitted: April 18, 2002

Decided: April 25, 2002

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Before MOTZ, TRAXLER, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Salathiel Franklin Quesenberry, Jr., Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Salathiel Franklin Quesenberry seeks to appeal the district court's order adopting the report and recommendation of the magistrate judge and dismissing his 42 U.S.C.A. § 1983 complaint. We dismiss the appeal for lack of jurisdiction because Quesenberry's notice of appeal was not timely filed.

Parties are accorded thirty days after entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on May 16, 2001. Appellant's notice of appeal was filed on September 27, 2001. Because Appellant failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We also deny Quesenberry's motion for appointment of counsel, his motion for a hearing, and his motion objecting to the filing fee. We dispense with oral argument because the facts and legal contentions are adequately presented in the

materials before the court and argument would not aid the decisional process.

DISMISSED